

Washington, DC

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

AT&T MOBILITY, LLC

and

Case 05-CA-178637

MARCUS DAVIS

**ORDER REMANDING<sup>1</sup>**

On September 28, 2018, the National Labor Relations Board issued a Notice to Show Cause why this case should not be remanded for further consideration under *The Boeing Co.*, 365 NLRB No. 154 (2017). The General Counsel and the Charging Party filed responses opposing remand, and the Respondent filed a response supporting remand.

Having duly considered the matter,

IT IS ORDERED that this proceeding is remanded to Administrative Law Judge Arthur J. Amchan for the preparation of a supplemental decision addressing the complaint allegations in light of *Boeing* and setting forth credibility resolutions, findings of fact, conclusions of law, and a recommended Order. Copies of the supplemental

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<sup>1</sup> Member Emanuel is recused and did not participate in this proceeding.

decision shall be served on all parties, after which the provisions of Section 102.46 of the Board's Rules and Regulations shall be applicable.<sup>2</sup>

Dated, Washington, D.C., March 15, 2019.

By direction of the Board:

/s/ Roxanne Rothschild

Executive Secretary

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<sup>2</sup> The General Counsel requests that the Board dismiss, instead of remand, the allegation regarding the Respondent's maintenance of its Privacy of Communications policy, which the General Counsel represents is lawful under *Boeing*. The Board denies this request and remands the case to the judge in its entirety for further consideration, including, if appropriate, dismissal of the maintenance allegation regarding the Privacy of Communications policy.

Member McFerran observes that apart from whether the Respondent's Privacy Confidentiality Rule is facially lawful or unlawful under *The Boeing Co.*, 365 NLRB No. 154 (2017), there remains the separate question whether the Respondent's threat to discipline employees under the rule violated Sec. 8(a)(1) if the record establishes that the rule "ha[d] been applied to restrict the exercise of Section 7 rights." *Lutheran Heritage Village-Livonia*, 343 NLRB 646, 647 (2004).